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**UNITED STATES DISTRICT COURT**

**DISTRICT OF NEVADA, SOUTHERN DIVISION**

ESTEVAN ALVARADO-HERRERA , an  
individual,

Plaintiff,

v.

JOSE LUIS ALVAREZ, JR., Individually;  
R&R EXPRESS, INC, a Pennsylvania  
corporation; ALVARO JOSE MEDEL,  
Individually; ONE WAY TRUCKING, LLC, a  
Texas Limited Liability Company, and, DOES  
I through XX, Inclusive,

Defendants.

ACUITY, a Mutual Insurance Company,

Intervenor.

CASE NO.: 2:19-cv-00748-JAD-VCF

**SECOND AMENDED COMPLAINT**

[JURY DEMAND]

1 Plaintiff, ESTEVAN ALVARADO-HERRERA, by and through his attorneys STEVEN  
2 T. JAFFE, ESQ., and TAYLOR R. ANDERSON, ESQ. of HALL JAFFE & CLAYTON, LLP,  
3 and JOHN P. SHANNON and JASON S. COOK, of the LAW OFFICE OF WILLIAM H.  
4 JACKSON, LLC and for his claims of relief against Defendants JOSE LUIS ALVAREZ, JR.;  
5 R&R EXPRESS, INC.; ALVARO JOSE MEDEL; and, ONE WAY TRUCKING, LLC.,  
6 alleges and complains as follows:

7 **GENERAL ALLEGATIONS**

8 1. That at all time relevant hereto, Plaintiff ESTEVAN ALVARADO-HERERRA,  
9 individually, (hereinafter "ALVARADO"), is and was a resident of the County of Clark, State  
10 of Nevada.

11 2. Upon information and belief, at all times herein mentioned, Defendant JOSE LUIS  
12 ALVAREZ, JR. (hereinafter "ALVAREZ"), is and was a resident of the State of Texas.

13 3. Upon information and belief, at all times herein mentioned, R&R EXPRESS,  
14 INC., (hereinafter "R&R"), previously identified as DOE III, was and is Pennsylvania  
15 corporation that were registered to do business in, doing business in and/or maintained a  
16 principal place of business in the County of Clark, State of Nevada.

17 4. Upon information and belief, at all times herein mentioned, Defendant ALVARO  
18 JOSE MEDEL (hereinafter "MEDEL"), previously identified as DOE I, is and was a resident  
19 of the State of Texas.

20 5. Upon information and belief, at all times herein mentioned, Defendant ONE WAY  
21 TRUCKING, LLC. (hereinafter "ONE WAY TRUCKING"), previously identified as DOE II,  
22 is and was a Texas Limited Liability Company that was registered to do business in, doing  
23 business in and/or maintained a principal place of business in the County of Clark, State of  
24 Nevada.

25 6. That all acts and omissions referenced herein occurred within the County of Clark,  
26 State of Nevada.

27 7. That the true names and identities, whether, corporate, associate or otherwise, of  
28 Defendants DOES XI through XX are unknown to Plaintiff, who therefore sues said Defendants

1 by such fictitious names. Plaintiff is informed and believes, and therefore alleges that each  
2 Defendant designated herein as a DOE was the agent, servant, employee, or corporate employer  
3 of the other, acting within the scope and purpose of said agency, service, employment, or  
4 corporate activity; Defendants may have been, and/or are, the owners and operators of the motor  
5 vehicle, and/or their employers and/or family members who, while in the course and scope of  
6 employment and/or family purpose, entrusted and drove in such a negligent and careless manner  
7 so as to cause injuries to the Plaintiff. Plaintiff request leave of the Court to amend this  
8 Complaint to name Defendants specifically when their identities become known.

9 8. That DOES IV through XX are immediate family members of Defendants who  
10 may be liable for Defendants' negligence pursuant to NRS 41.440, which states:

11 Any liability imposed upon a wife, husband, son, daughter, father,  
12 mother, brother, sister or other immediate member of a family  
13 arising out of his or her driving and operating a motor vehicle upon  
14 a highway with the permission, express or implied, of such owner  
15 is hereby imposed upon the owner of the motor vehicle, and such  
16 owner shall be jointly and severally liable with his or her wife,  
17 husband, son, daughter, father, mother, brother, sister or other  
18 immediate member of a family for any damages proximately  
19 resulting from such negligence or willful misconduct, and such  
20 negligent or willful misconduct shall be imputed to the owner of  
21 the motor vehicle for all purposes of civil damages.

22 9. That DOES IV through XX are employers of Defendants who may be liable for  
23 Defendants' negligence pursuant to NRS 41.130, which states:

24 Except as otherwise provided in NRS 41.745, whenever any person  
25 shall suffer personal injury by wrongful act, neglect or default of  
26 another, the person causing the injury is liable to the person injured  
27 for damages; and where the person causing the injury is employed  
28 by another person or corporation responsible for his conduct, that  
person or corporation so responsible is liable to the person injured  
for damages.

10. That Plaintiff is further informed and believes, and on that basis alleges, that  
certain witnesses are known to Plaintiff as witnesses. However, Plaintiff does not yet know  
whether or not particular witnesses have culpability in this matter at this time. However, once  
Plaintiff has determined the true culpability of one or more of the DOE and ROE  
CORPORATION Defendants, he will amend his complaint to set forth facts and claims alleging

1 the actual culpability and to substitute such witnesses for DOE and ROE CORPORATION  
2 Defendants.

3 **FIRST CAUSE OF ACTION**  
4 **NEGLIGENCE**  
5 **(Against All Defendants)**

6 11. Plaintiff hereby realleges and incorporates all previous paragraphs of this  
7 Complaint, as if set forth fully herein.

8 12. On or about January 30, 2017, Plaintiff ALVARADO was standing outside of the  
9 left side of his vehicle, a 2012 Ford Transit Connect van, with the left sliding door opened, while  
10 located in a private parking lot at 4210 West Patrick Lane, in the County of Clark, State of  
11 Nevada.

12 13. On or about January 30, 2017, Defendant ALVAREZ was driving a 2015 Dodge  
13 Ram 3500 pickup truck that was towing a semi-trailer, and was traveling eastbound in the  
14 parking lot of 4210 West Patrick Lane. Defendant ALVAREZ performed a sharp right turn to  
15 travel southbound across the parking lot toward the exit/entrance gate.

16 14. During Defendant ALVAREZ's turn, the right side of the trailer being towed by  
17 Defendant ALVAREZ collided with left sliding door of Plaintiff ALVARADO'S vehicle.

18 15. As Defendant ALVAREZ continued with his turn, left sliding door of Plaintiff  
19 ALVARADO's vehicle became lodged onto the Defendant ALVAREZ's trailer near a cargo  
20 strap assembly.

21 16. During the continued travel of the Defendant ALVAREZ's vehicle, violent  
22 contact was also made with the Plaintiff, ALVARADO, who became caught between the left  
23 door of his vehicle, and the right side of the Defendant ALVAREZ's trailer. The right side of  
24 Defendant ALVAREZ's trailer ripped the left cargo door of the Plaintiff ALVARADO's  
25 vehicle.

26 17. Defendant ALVAREZ owed a duty of care in the operation of the 2015 Dodge  
27 Ram 3500 pickup truck and trailer.

28 18. That by operating said vehicle and trailer in such a careless and reckless manner,  
Defendant ALVAREZ breached his duty of care and was therefore negligent.

1           19. At all times relevant hereto, Defendant ALVAREZ was operating the 2015 Dodge  
2 Ram 3500 pickup truck and trailer in the course and scope of his employment with either  
3 Defendant MEDEL and/or Defendant ONE WAY TRUCKING, and/or with the express or  
4 implied permission of the owner of the vehicle.

5           20. On or about January 27, 2017, Defendant R&R entered into a Broker-Carrier  
6 Agreement with Defendant ONE WAY TRUCKING that provided a “mutual benefit” between  
7 the parties that allowed ONE WAY TRUCKING to “receive and accept (or decline) offers to  
8 transport one or more freight shipments from any one of the affiliated ‘Participating Brokers’,  
9 including R&R EXPRESS, INC.

10           21. At all times material hereto, Defendant R&R, pursuant to Broker-Carrier  
11 Agreement, as a Participating Broker assigned, contracted, or otherwise offered Defendant ONE  
12 WAY TRUCKING the freight shipment(s) being transported by Defendant ALVAREZ at the  
13 time of this incident. Defendant ALVAREZ was at all times material an agent, employee, or  
14 independent contractor for Defendant R&R, Defendant ONE WAY TRUCKING, and/or  
15 Defendant MEDEL.

16           22. Defendant R&R had a duty to select a competent contractor to transport the load  
17 it was contracting for interstate transport and breached that duty in selecting Defendant  
18 ALVAREZ, Defendant MEDEL and/or Defendant ONE WAY TRUCKING after having reason  
19 to know that Defendant ALVAREZ, Defendant MEDEL and/or Defendant ONE WAY  
20 TRUCKING were engaged in unsafe practices and/or Defendant R&R failed to perform a  
21 meaningful investigation to determine whether Defendant ALVAREZ, Defendant MEDEL  
22 and/or Defendant ONE WAY TRUCKING was a competent contractor.

23           23. Defendant R&R had a duty to ensure its agent and/or contractor Defendant  
24 ALVAREZ, Defendant MEDEL and/or Defendant ONE WAY TRUCKING had adequate  
25 insurance given the inherently dangerous nature of the activity and breached that duty in  
26 selecting Defendant ALVAREZ, Defendant MEDEL and/or Defendant ONE WAY  
27 TRUCKING.  
28

24. Defendant R&R; Defendant MEDEL; and/or, Defendant ONE WAY TRUCKING are therefore liable for Defendant ALVAREZ's negligence pursuant to Nevada law, NRS 41.130.

25. As a direct and proximate result of the negligence, of Defendant ALVAREZ; Defendant R&R; Defendant MEDEL; and/or, Defendant ONE WAY TRUCKING, as herein alleged, Plaintiff ALVARADO sustained several severe physical injuries resulting in past and future general and special damages, including but not limited to: pain and suffering; emotional anxiety and distress; loss of enjoyment of life; medical treatment, including invasive surgical procedures and associated medical expenses; lost wages, loss of future earnings and earning capacity; loss of household services; and other incident expenses and damages; with said past and future general and special damages in an amount in excess of SEVENTY-FIVE THOUSAND DOLLARS (\$75,000.00).

26. As a direct and proximate result of the negligence of Defendants ALVAREZ; Defendant R&R; Defendant MEDEL; and/or, Defendant ONE WAY TRUCKING, as herein alleged, it has been necessary for Plaintiff ALVARADO to retain the attorneys to prosecute this action, and Plaintiff is therefore entitled to recover his reasonable attorney's fees and costs.

WHEREFORE, Plaintiff prays for judgment as follows:

1. General and emotional damages in an amount in excess of \$75,000.00, exclusive of interest and costs;
2. For past special damages in an amount in excess of \$75,000.00 to be proven at trial, exclusive of interest and costs;
3. For future medical care, future loss of income and earning capacity, future loss of household services, and future pain, suffering, emotional anxiety and distress in excess of \$75,000.00 to be proven at trial, exclusive of interest and costs;

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4. For pre-judgment and post-judgment interest, attorney's fees, costs of suit; and
5. For such other and further relief as the court may deem just, equitable and proper
- in the premises.

DATED this 27<sup>th</sup> day of February, 2020.

**HALL JAFFE & CLAYTON, LLP**

By: 

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**CERTIFICATE OF SERVICE**

Pursuant to NRCP 5(b), I certify that I am an employee of **HALL JAFFE & CLAYTON, LLP**, and on this 27<sup>th</sup> day of February, 2020, I served a copy of the foregoing **PLAINTIFF'S REQUEST FOR CASE MANAGEMENT CONFERENCE** as follows:

- ☐ **U.S. MAIL** — By depositing a true copy thereof in the U.S. Mail, first class postage prepaid and addressed as listed below; and/or
- ☐ **FACSIMILE** — By facsimile transmission to the facsimile number(s) shown below; and/or
- ☐ **HAND DELIVERY** — By hand-delivery to the addresses listed below; and/or
- ☒ **ELECTRONIC SERVICE** — Pursuant to the Court's CM/ECF e-filing system.

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Sarah Hartig, Esq.  
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*Defendants One Way Trucking, LLC,  
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An Employee of  
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